

AMENDED IN SENATE AUGUST 8, 2012

AMENDED IN SENATE JUNE 27, 2012

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN SENATE JUNE 20, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 723**

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**Introduced by Assembly Member Bradford**

February 17, 2011

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*An act to amend Sections 25740.5 and 25751 of, to repeal Chapter 8.1 (commencing with Section 25710) of Division 15 of, and to add Sections 25744.6 and 25744.7 to, the Public Resources Code, and to amend Section 399.8 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 723, as amended, Bradford. Energy: public goods charge.

(1) Under the Public Utilities Act (the act), the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The Reliable Electric Service Investments Act within the act requires the PUC to require an electrical corporation, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the “public goods charge,” to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits. A violation of the act is a crime.

This bill would extend this requirement to January 1, 2020, and would make other technical and conforming changes. Because a violation of

the act is a crime, this bill would impose a state-mandated local program by extending the application of a crime.

(2) *An existing decision of the PUC institutes an Electric Program Investment Charge (EPIC), subject to refund, to fund renewable energy and research, development, and demonstration programs. Existing law requires moneys received by the PUC for those EPIC programs that the PUC has determined should be administered by the Energy Commission to be forwarded by the PUC to the Energy Commission at least quarterly for deposit in the Electric Program Investment Charge Fund.*

*This bill would repeal the fund and would, instead, require EPIC collected for renewable energy to be transmitted to the State Energy Resources Conservation and Development Commission (Energy Commission) for deposit in the Renewable Resources Trust Fund. The bill would provide that the collection of the public goods charge supersedes the imposition of EPIC by the PUC.*

(3) *Existing law establishes the renewable energy resources program to increase the amount of electricity generated from eligible renewable energy resources per year so that it equals at least 33% of total retail sales of electricity in California by December 31, 2020.*

*This bill would require the Energy Commission to implement a Clean Energy Investment Program to support the achievement of the state's renewable energy goals. The bill would require the Energy Commission to develop and adopt an annual investment plan to establish priority activities for the program and describe how funding will complement, but not duplicate, existing public and private investments. This would require the Energy Commission to establish an advisory body to assist the Energy Commission in developing the investment plan. The bill would require the Energy Commission to submit to the relevant committees of the Legislature draft of a multiyear investment plan and to submit to the Legislature an annual report highlighting and explaining the rationale for any year-to-year changes to the Energy Commission's activity strategy and priorities. The bill would require the Energy Commission to report annually to the Legislature regarding the results of the mechanisms funded. The bill would require that the portion of the public goods charge collected for renewable energy be transmitted to the Energy Commission for deposit in the Renewable Resources Trust Fund. The bill would require the money in the fund, upon appropriation by the Legislature, be expended to implement the Clean Energy Investment Program and the New Solar Homes Partnership, to provide*

*grants to eligible counties to facilitate the development of eligible renewable energy resources, and to provide funding to the Superintendent of Public Instruction for grants to school districts to implement the Clean Technology and Renewable Energy Job Training, Career Technical Education, and Dropout Prevention Program.*

*(4) This bill would not become operative unless SB 870 of the 2011–12 Regular Session of the Legislature is enacted on or before January 1, 2013.*

*(2)*

*(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*(3)*

*(6) This bill would declare that it is to take effect immediately as an urgency statute.*

*Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

*1 SECTION 1. Chapter 8.1 (commencing with Section 25710)  
2 of Division 15 of the Public Resources Code is repealed.*

*3 SEC. 2. Section 25740.5 of the Public Resources Code is  
4 amended to read:*

*5 25740.5. Notwithstanding any other law, moneys collected for  
6 renewable energy pursuant to Article 15 (commencing with Section  
7 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
8 Code shall be transferred to the Renewable Resource Trust Fund.  
9 Moneys collected between January 1, 2007, and January 1, ~~2012~~  
10 2020, shall be used for the purposes specified in this chapter.*

*11 SEC. 3. Section 25744.6 is added to the Public Resources Code,  
12 to read:*

*13 25744.6. (a) The commission shall implement the Clean Energy  
14 Investment Program to support the achievement of the state's  
15 renewable energy goals, including the growth of distributed  
16 generation, and seek creative solutions to barriers to development  
17 and deployment of technologies to achieve those goals. The  
18 program shall provide technical assistance, tools, and resources*

1 to support industry, local government, economic, and workforce  
2 development leaders in efforts to overcome these barriers.

3 (b) Activities eligible for investment pursuant to this section  
4 include, but are not limited to, technology demonstration and  
5 deployment and market facilitation for clean energy technologies,  
6 which will maximize job creation and economic growth through  
7 the deployment and commercialization of renewable energy, grid  
8 integration, and energy storage technologies.

9 (c) (1) The commission shall, in consultation with the advisory  
10 body established pursuant to subdivision (d), develop and adopt  
11 an annual investment plan to establish priority activities for the  
12 program to achieve the goals of this section and describe how  
13 funding will complement but not duplicate existing public and  
14 private investments, including existing state programs that further  
15 the goals of this section.

16 (2) On or before March 15, 2013, and annually thereafter, the  
17 commission shall submit a draft of a multiyear investment plan,  
18 in accordance with paragraph (1) and including the upcoming  
19 fiscal year to all relevant policy and fiscal committees of the  
20 Legislature. In enacting this paragraph, it is the intent of the  
21 Legislature to ensure legislative oversight of the program and  
22 provide to the Legislature all of the information necessary to fully  
23 understand the manner in which funds are to be allocated and  
24 prioritized within the program.

25 (3) The commission shall, at a minimum, hold at least two  
26 annual public hearings on the advisory body's recommendations  
27 on the commission's proposed investment plan prior to the  
28 commission's consideration and approval of the investment plan.

29 (d) (1) The commission shall establish an advisory body with  
30 membership that includes, but is not limited to, representatives of  
31 investor-owned utilities, the Public Utilities Commission and the  
32 Independent System Operator, clean energy businesses and  
33 investors, local governments, building industries, labor  
34 organizations, environmental groups, environmental justice groups,  
35 ratepayer groups, business associations, and research and  
36 technical experts.

37 (2) The advisory body shall work with the commission in  
38 developing the investment plan pursuant to subdivision (c).

39 (3) The advisory body shall meet at least twice annually to  
40 provide strategic and technical guidance.

1     (4) *The advisory body shall be subject to the Bagley-Keene*  
2 *Open Meeting Act (Article 9 (commencing with Section 11120) of*  
3 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
4 *Code).*

5     (f) *The commission shall submit an annual report to the*  
6 *Legislature that highlights and explains the rationale for any*  
7 *year-to-year changes to the commission's activity strategy and*  
8 *priorities, particularly with respect to specific demonstration*  
9 *programs or policy initiatives.*

10    (g) *It is the intent of the Legislature that submission of the draft*  
11 *investment plan, along with timely notification of modifications to*  
12 *the investment plan thereafter, as reported in the commission's*  
13 *annual reports to the Legislature, will ensure legislative oversight*  
14 *of the program and provide the Legislature with all of the*  
15 *necessary information to fully understand how and why funds are*  
16 *to be allocated and prioritized within the program.*

17    (h) *The commission may make a single source or sole source*  
18 *award pursuant to this section. The same requirements of*  
19 *subdivision (f) of Section 25620.5 shall apply to awards made on*  
20 *a single source basis or a sole source basis pursuant to this*  
21 *subdivision.*

22    (i) *Reports required pursuant to this section shall be submitted*  
23 *in compliance with Section 9795 of the Government Code.*

24    (j) (1) *Notwithstanding any other provision of law, moneys*  
25 *collected for renewable energy pursuant to Article 15 (commencing*  
26 *with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the*  
27 *Public Utilities Code shall be transferred to the Renewable*  
28 *Resource Trust Fund.*

29    (2) *Moneys collected on and after January 1, 2012, and before*  
30 *January 1, 2020, shall be used for the purposes specified in this*  
31 *chapter.*

32    SEC. 4. *Section 25744.7 is added to the Public Resources Code,*  
33 *to read:*

34    25744.7. (a) *The commission shall adopt guidelines governing*  
35 *the funding of the Clean Energy Investment Program established*  
36 *pursuant to Section 25744.6.*

37    (b) *Funds to further the purposes of this section and Section*  
38 *25744.6 may be committed for multiple years.*

39    (c) *The commission may award funding under this section and*  
40 *Section 25744.6 in the form of contracts, grants and loans, and*

1 other funding or financing mechanisms identified by the  
2 commission. Any actions taken by an applicant to apply for, or to  
3 become or remain eligible to receive, grant or loan payments or  
4 awards shall not constitute the rendering of goods, services, or a  
5 direct benefit to the commission.

6 (d) An award made pursuant to this section and Section 25744.6,  
7 the amount of the award, and the terms and conditions of the award  
8 are public information.

9 (e) The commission shall, pursuant to Section 9795 of the  
10 Government Code, report to the Legislature on or before July 31,  
11 2013, and annually thereafter, regarding the results of the  
12 mechanisms funded pursuant to this section and Section 25744.6.  
13 The report shall contain all of the following:

14 (1) A description of the allocation of funds.

15 (2) The status of any repayments.

16 (3) A description of the cumulative commitment of awards, the  
17 relative demand for funds, and a forecast of future awards.

18 (4) A discussion of the progress being made toward achieving  
19 the targets established under Section 25740 through funding  
20 provided pursuant to this section and Section 25744.6.

21 (5) A description of the allocation of funds from interest  
22 earnings.

23 (6) An itemized list, including project descriptions, award  
24 amounts, and outcomes for projects awarded funding in the prior  
25 year.

26 (f) That portion of revenues collected by electrical corporations  
27 for the benefit of renewable energy, pursuant to Section 399.8 of  
28 the Public Utilities Code, shall be transmitted to the commission  
29 at least quarterly for deposit in the Renewable Resource Trust  
30 Fund established pursuant to subdivision (a) of Section 25751 for  
31 the purposes specified in Section 25744.6. After setting aside in  
32 the fund money that may be needed for expenditures authorized  
33 by the annual Budget Act pursuant to this section, the Treasurer  
34 shall immediately deposit money received pursuant to this section  
35 into the Renewable Resource Trust Fund.

36 (g) The money in the Renewable Resource Trust Fund may be  
37 expended, only upon appropriation by the Legislature in the annual  
38 Budget Act, for the purposes of this section.

39 SEC. 5. Section 25751 of the Public Resources Code is  
40 amended to read:

1 25751. (a) The Renewable Resource Trust Fund is hereby  
2 created in the State Treasury.

3 (b) The Emerging Renewable Resources Account is hereby  
4 established within the Renewable Resources Trust Fund.  
5 Notwithstanding Section 13340 of the Government Code, the  
6 moneys in the account are hereby continuously appropriated to  
7 the commission without regard to fiscal years for the following  
8 purposes:

9 (1) To close out the award of incentives for emerging  
10 technologies in accordance with former Section 25744, as this law  
11 existed prior to the enactment of the Budget Act of 2012, for which  
12 applications had been approved before the enactment of the Budget  
13 Act of 2012.

14 (2) To close out consumer education activities in accordance  
15 with former Section 25746, as this law existed prior to the  
16 enactment of the Budget Act of 2012.

17 (c) The Controller shall provide to the commission funds  
18 pursuant to the continuous appropriation in, and for purposes  
19 specified in, subdivision (b).

20 (d) The Controller shall provide to the commission moneys  
21 from the fund sufficient to satisfy all contract and grant awards  
22 that were made by the commission pursuant to former Sections  
23 25744 and 25746, and Chapter 8.8 (commencing with Section  
24 25780), as these laws existed prior to the enactment of the Budget  
25 Act of 2012.

26 (e) *Moneys in the fund shall, upon appropriation by the*  
27 *Legislature, be expended by the commission for all of the following:*

28 (1) *The New Solar Homes Partnership administered by the*  
29 *commission.*

30 (2) *The allocation of grants by the commission to qualified*  
31 *counties pursuant to Section 25619.*

32 (3) *The allocation of funds to the Superintendent of Public*  
33 *Instruction for grants to school districts pursuant to Section 54699*  
34 *of the Education Code.*

35 (4) *The implementation of the Clean Energy Investment Program*  
36 *established pursuant to Section 25744.6.*

37 **SECTION 1.**

38 **SEC. 6.** Section 399.8 of the Public Utilities Code is amended  
39 to read:

1 399.8. (a) In order to ensure that the citizens of this state  
2 continue to receive safe, reliable, affordable, and environmentally  
3 sustainable electric service, it is the policy of this state and the  
4 intent of the Legislature that prudent investments in energy  
5 efficiency, renewable energy, and research, development and  
6 demonstration shall continue to be made.

7 (b) (1) Every customer of an electrical corporation shall pay a  
8 nonbypassable system benefits charge authorized pursuant to this  
9 article. The system benefits charge shall fund energy efficiency,  
10 renewable energy, and research, development and demonstration.

11 (2) Local publicly owned electric utilities shall continue to  
12 collect and administer system benefits charges pursuant to Section  
13 385.

14 (c) (1) The commission shall require each electrical corporation  
15 to identify a separate rate component to collect revenues to fund  
16 energy efficiency, renewable energy, and research, development  
17 and demonstration programs authorized pursuant to this section  
18 beginning January 1, 2002, and ending January 1, 2020. The rate  
19 component shall be a nonbypassable element of the local  
20 distribution service and collected on the basis of usage.

21 (2) This rate component shall not exceed, for any tariff schedule,  
22 the level of the rate component that was used to recover funds  
23 authorized pursuant to Section 381 on January 1, 2000. If the  
24 amounts specified in paragraph (1) of subdivision (d) are not  
25 recovered fully in any year, the commission shall reset the rate  
26 component to restore the unrecovered balance, provided that the  
27 rate component shall not exceed, for any tariff schedule, the level  
28 of the rate component that was used to recover funds authorized  
29 pursuant to Section 381 on January 1, 2000. Pending restoration,  
30 any annual shortfalls shall be allocated pro rata among the three  
31 funding categories in the proportions established in paragraph (1)  
32 of subdivision (d).

33 (d) The commission shall order San Diego Gas and Electric  
34 Company, Southern California Edison Company, and Pacific Gas  
35 and Electric Company to collect these funds commencing on  
36 January 1, 2002, as follows:

37 (1) Two hundred twenty-eight million dollars (\$228,000,000)  
38 per year in total for energy efficiency and conservation activities,  
39 sixty-five million five hundred thousand dollars (\$65,500,000) in  
40 total per year for renewable energy, and sixty-two million five



1 hundred thousand dollars (\$62,500,000) in total per year for  
2 research, development and demonstration. The funds for energy  
3 efficiency and conservation activities shall continue to be allocated  
4 in proportions established for the year 2000.

5 (2) The amounts shall be adjusted annually at a rate equal to  
6 the lesser of the annual growth in electric commodity sales or  
7 inflation, as defined by the gross domestic product deflator.

8 ~~(e) The commission shall ensure that each electrical corporation~~  
9 ~~allocates funds transferred by the Energy Commission pursuant~~  
10 ~~to subdivision (b) of Section 25743 in a manner that maximizes~~  
11 ~~the economic benefit to all customer classes that funded the New~~  
12 ~~Renewable Resources Account.~~

13 ~~(f)~~

14 (e) The commission and the Energy Commission shall retain  
15 and continue their oversight responsibilities as set forth in Sections  
16 381 and 384, and Chapter 7.1 (commencing with Section 25620)  
17 and Chapter 8.6 (commencing with Section 25740) of Division 15  
18 of the Public Resources Code.

19 ~~(g)~~

20 (f) An applicant for the Large Nonresidential Standard  
21 Performance Contract Program funded pursuant to paragraph (1)  
22 of subdivision (b) and an electrical corporation shall promptly  
23 attempt to resolve disputes that arise related to the program's  
24 guidelines and parameters prior to entering into a program  
25 agreement. The applicant shall provide the electrical corporation  
26 with written notice of any dispute. Within 10 business days after  
27 receipt of the notice, the parties shall meet to resolve the dispute.  
28 If the dispute is not resolved within 10 business days after the date  
29 of the meeting, the electrical corporation shall notify the applicant  
30 of his or her right to file a complaint with the commission, which  
31 complaint shall describe the grounds for the complaint, injury, and  
32 relief sought. The commission shall issue its findings in response  
33 to a filed complaint within 30 business days of the date of receipt  
34 of the complaint. Prior to issuance of its findings, the commission  
35 shall provide a copy of the complaint to the electrical corporation,  
36 which shall provide a response to the complaint to the commission  
37 within five business days of the date of receipt. During the dispute  
38 period, the amount of estimated financial incentives shall be held  
39 in reserve until the dispute is resolved.

1     *SEC. 7. (a) The funds collected pursuant to the surcharge*  
2     *instituted by the Public Utilities Commission pursuant to Decision*  
3     *11-12-035 for renewable energy programs shall be transferred to*  
4     *the State Energy Resources Conservation and Development*  
5     *Commission for deposit in the Renewable Resources Trust Fund*  
6     *established pursuant to Section 25751 of the Public Resources*  
7     *Code. Any money deposited into the former Electric Program*  
8     *Investment Charge Fund established pursuant to former Section*  
9     *25711 of the Public Resources Code shall be transferred to the*  
10    *Renewable Resources Trust Fund.*

11    *(b) On and after the effective date of this act, the surcharge*  
12    *imposed by the Public Utilities Commission pursuant to Decision*  
13    *11-12-035 shall be superseded by the collection of the*  
14    *nonbypassable rate component pursuant to subdivision (c) of*  
15    *Section 399.8 of the Public Utilities Code.*

16    *SEC. 8. This act shall not become operative unless Senate Bill*  
17    *870 of the 2011-2012 Regular Session of the Legislature is enacted*  
18    *on or before January 1, 2013.*

19    ~~SEC. 2.~~

20    *SEC. 9. No reimbursement is required by this act pursuant to*  
21    *Section 6 of Article XIII B of the California Constitution because*  
22    *the only costs that may be incurred by a local agency or school*  
23    *district will be incurred because this act creates a new crime or*  
24    *infraction, eliminates a crime or infraction, or changes the penalty*  
25    *for a crime or infraction, within the meaning of Section 17556 of*  
26    *the Government Code, or changes the definition of a crime within*  
27    *the meaning of Section 6 of Article XIII B of the California*  
28    *Constitution.*

29    ~~SEC. 3.~~

30    *SEC. 10. This act is an urgency statute necessary for the*  
31    *immediate preservation of the public peace, health, or safety within*  
32    *the meaning of Article IV of the Constitution and shall go into*  
33    *immediate effect. The facts constituting the necessity are:*

34    *In order to prevent interruption of the funding and administration*  
35    *of programs funded through the public goods charge and to reform*  
36    *administration of those programs to better serve the needs of*  
37    *ratepayers and the persons participating in those programs, it is*  
38    *necessary for this act to take effect immediately.*

O